

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0945-PWS-E   **TCEQ ID:** RN101233534   **CASE NO.:** 33798  
**RESPONDENT NAME:** Gray Utility Service L.L.C.

Page 1 of 2

|  |   |   |
|--|---|---|
| <b>ORDER TYPE:</b>   |   |   |
| <input type="checkbox"/> 1660 AGREED ORDER   | <input checked="" type="checkbox"/> FINDINGS AGREED ORDER   | <input type="checkbox"/> FINDINGS ORDER FOLLOWING<br>SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER  | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL<br>ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER   | <input type="checkbox"/> EMERGENCY ORDER                    |   |
| <b>CASE TYPE:</b>  |   |   |
| <input type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS<br>WASTE              |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY  | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                     |
| <input type="checkbox"/> WATER QUALITY   | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION<br>CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                       |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Veranda Subdivision, 5601 Farm-to-Market Road 565 East, Chambers County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/>    <b>TCEQ Attorney/SEP Coordinator:</b> None<br/>    <b>TCEQ Enforcement Coordinator:</b> Mr. Thomas Barnett, Enforcement Division, Enforcement Team 2, MC 169, (713) 767-3680;<br/>    Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/>    <b>Respondent:</b> Mr. Walter M. Gray, General Manager, Gray Utility Service L.L.C., P.O. Box 2099, Mont Belvieu, Texas 77580-2099<br/>    <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |   |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|---|--|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 19, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 20, 2005, February 24 and April 19, 2006 (NOVs); and May 21, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> | <p><b>Total Assessed:</b> \$745</p> <p><b>Total Deferred:</b> \$0<br/> <input type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$745</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p> | <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |

Additional ID No(s): PWS ID 0360005



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES

Assigned

11-Jun-2007

PCW

14-Jun-2007

Screening

14-Jun-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Gray Utility Service L.L.C.

Reg. Ent. Ref. No. RN101233534

Facility/Site Region 12-Houston

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 33798

Docket No. 2007-0945-PWS-E

Media Program(s) Public Water Supply

Multi-Media

No. of Violations 1

Order Type Findings

Enf. Coordinator Thomas Barnett

EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

24% Enhancement

Subtotals 2, 3, &amp; 7 \$120

Notes

Enhancement recommended due to four Notices of Violation ("NOVs") for violations that are same or similar and two NOVs for violations that are not same or similar.

Culpability

Yes

25% Enhancement

Subtotal 4 \$125

Notes

The Respondent was issued alert letters for trihalomethanes on July 11, 2005 and November 7, 2006.

Good Faith Effort to Comply

0%

Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement\*

Subtotal 6 \$0

\*Capped at the Total EB \$ Amount

Total EB Amounts \$831

Approx. Cost of Compliance \$5,000

## SUM OF SUBTOTALS 1-7

Final Subtotal \$745

## OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$745

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$745

## DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

## PAYABLE PENALTY

\$745

Screening Date 14-Jun-2007

Docket No. 2007-0945-PWS-E

PCW

Respondent Gray Utility Service L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33798

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101233534

Media [Statute] Public Water Supply

Enf. Coordinator Thomas Barnett

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 4                 | 20%     |
|                               | Other written NOVs   | 2                 | 4%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)  | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 24%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement recommended due to four Notices of Violation ("NOVs") for violations that are same or similar and two NOVs for violations that are not same or similar.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 24%

|  |  |   |  |                                      |  |
|--|--|---|--|--------------------------------------|--|
| <b>Screening Date</b> 14-Jun-2007                      |  | <b>Docket No.</b> 2007-0945-PWS-E   |  | <b>PCW</b>                           |  |
| <b>Respondent</b> Gray Utility Service L.L.C.          |  | <small>Policy Revision 2 (September 2002)</small>   |  |                                      |  |
| <b>Case ID No.</b> 33798                               |  | <small>PCW Revision May 25, 2007</small>  |  |                                      |  |
| <b>Reg. Ent. Reference No.</b> RN101233534             |  |   |  |                                      |  |
| <b>Media [Statute]</b> Public Water Supply             |  |   |  |                                      |  |
| <b>Enf. Coordinator</b> Thomas Barnett                 |  |   |  |                                      |  |
| <b>Violation Number</b> <input type="text" value="1"/> |  |   |  |                                      |  |
| <b>Rule Cite(s)</b>                                    |  | <input type="text" value="30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health &amp; Safety Code § 341.0315(c)"/>  |  |                                      |  |
| <b>Violation Description</b>                           |  | <input ("mg="" ("tthm")="" 0.080="" 0.081="" 0.085="" 0.088="" 0.091="" 2005,="" 2006,="" 2007."="" a="" and="" annual="" average="" average.="" based="" concentration="" first="" for="" fourth="" l="" l")="" liter="" mcl")="" mg="" milligrams="" of="" on="" per="" quarter="" running="" specifically,="" the="" third="" total="" trihalomethanes="" tthm="" type="text" value="Failed to comply with the maximum contaminant level (" was=""/> |  |                                      |  |
|  |  | <b>Base Penalty</b>   |  | <input type="text" value="\$1,000"/> |  |

**>> Environmental, Property and Human Health Matrix**

|           |                |                               |   |                               |                |                                  |
|-----------|----------------|-------------------------------|---|-------------------------------|----------------|----------------------------------|
| <b>OR</b> | <b>Harm</b>    |                               |   |                               |                |                                  |
|           | <b>Release</b> | <b>Major</b>                  | <b>Moderate</b>                           | <b>Minor</b>                  |                |                                  |
|           | Actual         | <input type="text" value=""/> | <input checked="" type="text" value="X"/> | <input type="text" value=""/> |                |                                  |
|           | Potential      | <input type="text" value=""/> | <input type="text" value=""/>             | <input type="text" value=""/> | <b>Percent</b> | <input type="text" value="25%"/> |

**>> Programmatic Matrix**

|                                 |                               |                               |                               |                |
|---------------------------------|-------------------------------|-------------------------------|-------------------------------|----------------|
| <b>Falsification</b>            | <b>Major</b>                  | <b>Moderate</b>               | <b>Minor</b>                  |                |
| <input type="text" value=""/>   | <input type="text" value=""/> | <input type="text" value=""/> | <input type="text" value=""/> | <b>Percent</b> |
| <input type="text" value="0%"/> |                               |                               |                               |                |

**Matrix Notes**

**Adjustment**

**Violation Events**

|                                   |                                |                                  |                                 |
|-----------------------------------|--------------------------------|----------------------------------|---------------------------------|
| <b>Number of Violation Events</b> | <input type="text" value="2"/> | <input type="text" value="632"/> | <b>Number of violation days</b> |
|-----------------------------------|--------------------------------|----------------------------------|---------------------------------|

|  |              |   |
|--|--------------|---|
| <small>mark only one with an x</small> | daily        | <input type="text" value=""/>             |
|  | monthly      | <input type="text" value=""/>             |
|  | quarterly    | <input type="text" value=""/>             |
|  | semiannual   | <input type="text" value=""/>             |
|  | annual       | <input checked="" type="text" value="X"/> |
|  | single event | <input type="text" value=""/>             |

Two annual events are recommended.

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input type="text" value="\$831"/>   | <b>Violation Final Penalty Total</b> <input type="text" value="\$745"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$745"/> |   |

**Economic Benefit Worksheet****Respondent** Gray Utility Service L.L.C.**Case ID No.** 33798**Reg. Ent. Reference No.** RN101233534**Media** Public Water Supply**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br>No commas or \$ | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|------------------------------|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |         |            |            |     |       |     |       |
|--------------------------|---------|------------|------------|-----|-------|-----|-------|
| Equipment                |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Buildings                |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Other (as needed)        |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Engineering/construction |         |            |            | 0.0 | \$0   | \$0 | \$0   |
| Land                     |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Record Keeping System    |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Training/Sampling        |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Remediation/Disposal     |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Permit Costs             |         |            |            | 0.0 | \$0   | n/a | \$0   |
| Other (as needed)        | \$5,000 | 6-Sep-2005 | 1-Jan-2009 | 3.3 | \$831 | n/a | \$831 |

**Notes for DELAYED costs**

Estimated cost to implement an alternative method of disinfection. The Date Required is the date the exceedances were first discovered. The Final Date is the estimated date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs****Approx. Cost of Compliance**

\$5,000

**TOTAL**

\$831

# Compliance History

|   |                                       |                              |                         |              |
|---|---------------------------------------|------------------------------|-------------------------|--------------|
| Customer/Respondent/Owner-Operator:           | CN602932196                           | Gray Utility Service, L.L.C. | Classification: AVERAGE | Rating: 2.56 |
| Regulated Entity:                             | RN101233534                           | VERANDA SUBDIVISION          | Classification:         | Site Rating: |
| ID Number(s):                                 | PUBLIC WATER SYSTEM/SUPPLY            | REGISTRATION                 | 0360005                 |              |
|   | WATER LICENSING                       | LICENSE                      | 0360005                 |              |
| Location:                                     | 5601 FM 565 EAST, CHAMBERS COUNTY, TX |                              |                         |              |
| TCEQ Region:                                  | REGION 12 - HOUSTON                   |                              |                         |              |
| Date Compliance History Prepared:             | June 21, 2007                         |                              |                         |              |
| Agency Decision Requiring Compliance History: | Enforcement                           |                              |                         |              |
| Compliance Period:                            | June 11, 2002 to June 11, 2007        |                              |                         |              |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Barnett Phone: 713-767-3500

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 09/09/2003 (151036)
- 2 10/20/2005 (560851)
- 3 02/24/2006 (561830)
- 4 04/19/2006 (561839)
- 5 06/26/2006 (464551)
- 6 04/19/2007 (561848)
- 7 06/05/2007 (562242)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/09/2003 (151036)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to post an emergency sign.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide sanitary control easements for the well.

Date: 10/20/2005 (560851)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for Trihalomethanes during the third quarter of 2005.

Date: 02/24/2006 (561830)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for Trihalomethanes during the fourth quarter 2005.

Date: 04/19/2006 (561839)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for Trihalomethanes during the first quarter of 2006.  
 Date: 06/27/2006 (464551)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
 Description: Failure to post an emergency sign.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121[G]  
 Description: Failure to maintain a chemical and microbiological monitoring plan.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)  
 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(C)  
 Description: Failure to provide complete monthly operating reports.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)  
 Description: Failure by a retail public utility to provide a planning report.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)  
 30 TAC Chapter 290, SubChapter D 290.46(j)  
 Description: Failure to complete customer service inspection certificates for new connections.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)[G]  
 Description: Failure to have backflow assemblies installed to provide protection against health hazards tested annually.  
 Date: 04/19/2007 (561848)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for Trihalomethanes during the first quarter of 2007.

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GRAY UTILITY SERVICE L.L.C.  
RN101233534

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-0945-PWS-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gray Utility Service L.L.C. ("Gray Utility") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Gray Utility presented this agreement to the Commission.

Gray Utility understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Gray Utility agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Gray Utility.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. Gray Utility owns and operates a public water supply at 5601 Farm-to-Market Road 565 East in Chambers County, Texas (the "Facility") that has approximately 323 service connections and serves at least 25 people per day for at least 60 days per year.



2. During a record review on May 19, 2007, TCEQ staff documented that Gray Utility did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average concentration of TTHM was 0.081 mg/L for the third quarter of 2005, 0.091 mg/L for the fourth quarter of 2005, 0.085 mg/L for the first quarter of 2006, and 0.088 mg/L for the first quarter of 2007.
3. Gray Utility received notices of the violations dated October 20, 2005, February 24, 2006, and April 19, 2006.

## II. CONCLUSIONS OF LAW

1. Gray Utility is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, Gray Utility failed to comply with the MCL of 0.080 mg/L for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Gray Utility for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Hundred Forty-Five Dollars (\$745) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Gray Utility has paid the Seven Hundred Forty-Five Dollar (\$745) administrative penalty.

## III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Gray Utility is assessed an administrative penalty in the amount of Seven Hundred Forty-Five Dollars (\$745) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Gray Utility's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gray Utility Service L.L.C., Docket No. 2007-0945-PWS-E" to:



Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Gray Utility shall undertake the following technical requirements:

- a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113.
- b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Water Supply Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Gray Utility. Gray Utility is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Gray Utility shall be made in writing to the Executive Director. Extensions are not effective until Gray Utility receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Gray Utility if the Executive Director determines that Gray Utility has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against Gray Utility in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

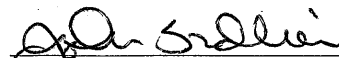




## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

10/27/2007  
Date

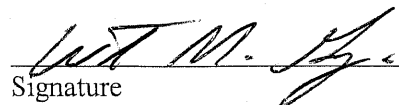
I, the undersigned, have read and understand the attached Agreed Order in the matter of Gray Utility Service L.L.C. I am authorized to agree to the attached Agreed Order on behalf of Gray Utility Service L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Gray Utility Service L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

8-8-07  
Date

Walter M. Gray  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Gray Utility Service L.L.C.

General Manager  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

